

Application No.: 10/030237

Docket No.: HCM-019US

**REMARKS**

Upon entry of the following amendment, claims 1-15 and 17 are pending. Claim 1 is amended herein and claim 17 is added by this amendment. Reconsideration and allowance of all pending claims are requested in view of the remarks below.

*Claim Rejections under 35 U.S.C. §112*

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. The office action asserts that it is unclear whether the use of the phrase "a baffle" on line 6 is the same element as "a baffle" referenced on line 5. Applicant submits herewith a correction to the typographical error, amending the second use of "a baffle" to "the baffle".

*Claim Rejections under 35 U.S.C. §102(b)*

Claims 1-5, 7-9, 11, 13, and 16 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 1,418,680 to Scott. Applicant traverses this rejection.

In operation, Applicant's chamber floats at the surface of the water so that unbroken waves arriving at the inlet port may travel through the chamber, gradually compressing air trapped in the troughs between successive waves. When the manifold is reached, the

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compressed air is released to the outlet port and the residual wave energy is dissipated by the baffle.

In contrast, Scott shows a chamber mounted on land, having a number of funnels 4 located in surf, i.e. broken waves, and associated pipes 2 which deliver pulses of mixed water and air to a separating chamber 1 where the air above the water is compressed by the pulses and drawn off at a pipe 20. The operation of Applicant's device is substantially different from that of Scott.

As a preliminary matter, Scott's device does not float, thereby rendering Scott unable to anticipate claim 1 or 17. Furthermore, Scott does not disclose any chamber inlet port at one end of the chamber, as recited in claims 1 and 17. Scott's chamber functions to separate air and water, and the outlet pipe or port 20 of Scott communicates with the air space above the water level. See figure 2 of Scott. Therefore, Applicant submits that Scott does not teach a manifold as recited in either of Applicant's claims 1 or 17. In the event that the Examiner seeks to assert that the air space of Scott functions as a manifold, Applicant notes that the air space is not located at an end of a chamber.

Additionally, Applicant submits that Scott does not teach vertical side plates as recited in claims 1 or 17. The Office Action asserts, in comments related to the rejection of claims 6, 10, 12 and 15, that modifying a chamber of Scott to include adjustable side plates for ease of adjusting the chamber volume and to control buoyancy of the chamber. However, Applicant notes that this assertion does not take into account that Scott's chamber does not float, has no buoyancy and has no apparent need to have an adjustable volume. In view of the above,

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Applicant submits that the rejection of claim 1 as being anticipated by Scott, is improper and should be withdrawn.

*Claim Rejections under 35 U.S.C. §103*

Claims 6, 10, 12, 15, are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 1,418,680 to Scott. Applicant traverses this rejection.

Applicant references the comments provided above in response to the rejection under 35 U.S.C. §102(b). Applicant submits that claims 6, 10, 12 and 15 are each patentable at least by way of their dependency from claim 1.

Furthermore, regarding claim 6, Applicant notes that Scott does not provide a buoyant chamber and therefore would not make sidewalls providing at least part of the buoyancy for a chamber obvious. Likewise, regarding claim 15, adjustability of the buoyancy of the chamber would not be made obvious by Scott. As noted above, Scott appears to have no apparent need to have an adjustable volume, making Scott insufficient to sustain an obviousness rejection of claims 10 and 12 in view of the alleged reason for obviousness supplied on page 3 of the Office Action.

In view of the above, Applicant submits that rejection of claim 6, 10, 12 and 15 are improper.

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*Newly Added Claim 17*

In addition to the reasons supplied above relating to the patentability of the newly added claim 17, Applicant submits the following additional remarks. Claim 17 recites vertical side plates whereby waves advancing horizontally through the chamber are induced to compress air in their troughs and deliver compressed air to the manifold and vents to the manifold outlet port. Applicant submits that no waves pass through Scott's chamber. Furthermore, air appears to be compressed in Scott by the pulses of water and entrained air entering the chamber from the funnels 4. As such, Applicant submits that Scott is insufficient to anticipate or make obvious claim 17, at least because Scott does not teach or suggest vertical side plates as recited in claim 17.

Applicant notes, merely for the Examiner's reference, that claim 17 corresponds to an allowed claim in Great Britain of a related application.

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CONCLUSION

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If there are any remaining issues or the Examiner believes that a telephone conversation with the Applicants' attorney would be helpful in expediting prosecution of this application, the Examiner is invited to call the undersigned at (617) 227-7400.

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Respectfully submitted,

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